

Californians for Renewable Energy, Inc. (CARE)

821 Lakeknoll Drive
Sunnyvale CA 94089

Michael Boyd, President
Californians for Renewable Energy
(CARE)
821 Lakeknoll Drive
Sunnyvale, CA 94089
(408) 325-4690

STATE OF CALIFORNIA State Energy Resources Conservation and Development Commission

In the Matter of:

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Docket No. 99- AFC-3

Comments on the Preliminary
Staff Assessment of the Metcalf
Energy Commission by
Max Davidson, MA, R.P.A.

June 30, 2000



Michael Boyd, President CARE

(□ Proof of Service Attached)

Californians for Renewable Energy, Inc. (CARE)

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TO: California Energy Commission
RE: Metcalf Energy Center
DATE: June 19, 2000

FROM: Max Davidson, MA, R.P.A.
Foothill College
12345 El Monte Rd.
Los Altos Hills, CA 94022
(415)267-1839
maxkathy@earthlink.net

To the California Energy Commission,

This letter is in regards to the Metcalf Energy Center project and its plans for mitigation of cultural resources. It specifically addresses the following concerns:

- 1) Notification of PSA Workshop schedules,
- 2) Notification of Native American Representatives for presence/absence testing,
- 3) Presence/absence testing for the natural gas pipeline and the PG&E metering station,
- 4) Avoidance of sites CA- SCL 249 and CA-SCL-250, and
- 5) Future involvement of Native American representatives in this project.

This is a preliminary document. Not all the issues expressed herein can be completely addressed until all necessary information has been made publicly available. There may also be subsequent issues that need to be addressed in the future.

My qualifications for responding to the PSA are attached in the form of a vita following this document.

1) Notification of PSA Workshops for the Metcalf Project:

Interested individuals were alerted to several PSA meetings that were scheduled to take place from June 13 - 22, 2000. On June 15, 2000 a meeting was scheduled to address public concerns for potential impact of cultural resources within the project area. The meeting was to take place from 9 AM to 5 PM. It was understood that the meeting could

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be attended at any time between 9 AM and 5 PM. Because the topics to be addressed were covered in the morning hours, the meeting was prematurely terminated at around 12:30. This did not give the public ample time to attend the meeting and express their concerns. It is possible that concerned citizens attempted to attend the meeting in the afternoon to find no one there.

I arrived at the meeting at 12:30, just as it was closing, expecting to have plenty of time to ask questions and post concerns. I would have preferred to address a panel, however, Dorothy Torres, Community Resources Unit and Colin Busby, Principle Investigator for Basin Research Associates, did stay to answer my questions. This information was helpful, but did not give me the forum of an open discussion and the benefit of addressing the entire committee. My interaction with them was very rushed and I did not feel as though we had ample time to discuss the issues fully.

2) Notification of Native American Representatives for Ground Breaking Activities:

Twenty-four trenches were excavated within the project area on August 24-25, 1999. This absence/presence testing was done throughout the project area with negative results. This testing is mentioned in the PSA filed May 15, 2000:

Page 313 Field Surveys

"Two discrete archaeological loci were identified on the project site. Subsequent backhoe trenching did not reveal a subsurface component to these loci (Calpine/Bechtel 1999k, Confidential Attachment CR-35, p.21)."

Native American representatives were not notified about the trenching. I asked Torres and Busby why the Native Americans were not contacted. Both felt that there was no need because they believed the project site to be a low probability area for cultural resources. However, the Preliminary Staff Assessment filed on May 15, 2000 frequently describes the project area as potentially highly sensitive for cultural resources:

Page 311 Project and Vicinity Description

"A floodplain exists in the area of Coyote Creek, making the likelihood of encountering intact resources underneath the silt deposited by floods moderately high (Calpine/Bechtel 1999a, p8.3-4)"

Page 312 Ethnographic Background

"Sources differ as to whether the Coyote Valley was an area where permanent villages were established, but it is likely that the area was at least the location of temporary campsites over hundreds of years (Calpine/Bechtel 1999b, p8.3-7)."

Page 312 Literature and Records Search

"Prior to the preparation of the AFC, consultants to the applicant conducted a literature search and reviewed site records and maps at the Northwest Information Center of the California Historical Resources Information System (CHRIS)."

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Page 315 Summary of Previously Identified Cultural Resources in the Project Vicinity
"Forty-four prehistoric and historic resources have been previously identified within one mile of the proposed MEC project site (Calpine/Bechtel 1999b, p.8.4-11). Five of these cultural resources have been determined eligible to the NHRP. Some of the prehistoric sites have been identified as habitation sites and several have contained Native American burials. The age of some of the sites may date as far back as 10,000 years before present (b.p.). Cultural resources sites in the Coyote Valley are both numerous and important and signal a potential for additional undiscovered resources in the project vicinity, therefore, making this area archaeologically sensitive."

Page 316 Potential for Project Impacts

"Because project-related site development and construction would entail sub-surface disturbance of the ground, the proposed project has the potential to adversely affect previously unknown cultural resources. Forty-four archaeological sites, features, or objects are known to be located within one mile of the proposed project. One of the NRHP eligible sites within one mile of the proposed project site appears to be one of the oldest sites in western California (Morrato 1984, p. 110). These sites include historic-era buildings. The presence of numerous sites indicates a high potential for previously unknown historic and prehistoric resources to be encountered and affected during project construction."

The PSA report also discusses the contacting of Native American representatives (pg. 315). Organizations and individuals, on a list of representatives provided by the NAHC, were contacted by the consultant to the applicant in January, February, and March of 1999. They were again contacted in February, 2000 and invited to a meeting to address Environmental Justice and Cultural Resources (PSA MEC, March 2000). Torres and Busby stated, however, that the Native Americans were not notified about the trenching that took place on August 24-25, 1999.

While the trenching produced negative results, it is my opinion that notifying the Native American Representative would have been proactive and a show of good faith. With a spring system nearby and forty-four cultural resource loci within a mile of the project, it would have not been unusual to discover cultural remains within the project area.

The National Historic Preservation Act of 1966 states that Native Americans should be notified before ground breaking activities.

Section 112 Professional Standards:

"Guidelines. In order to promote the preservation of historic resources on properties eligible for listing in the National register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans to--

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2)(B) or (C) of the Native American Graves Protection and Repatriation Act (25

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U.S.C. 3002(a)(2)(B) and (C)), given notice to and consult with such Indian tribe or Native Hawaiian organization."

Although no cultural items were reported, there was potential for items to be removed during trenching. Planning for a Native American monitor would have been in compliance with the professional guidelines set forth in the National Historic Preservation Act.

3) Presence/Absence Testing for the Natural Gas Pipeline and the PG&E Metering Station:

In my review of the PSA, I noticed that the project areas to be impacted by the development of a natural gas line and the PG&E metering station were originally recommended for presence/absence testing. The new recommendation of the applicant is to forgo testing and call Native American monitors if cultural remains are found. The staff recommendations are more proactive.

Page 318 Natural Gas Pipeline:

"Three cultural resources sites, two of them NRHP eligible, are located close to the proposed natural gas line and the PG&E metering station. It does not appear that any of these resources will be impacted, however presence/absence testing and monitoring would be required to ensure there are no impacts to previously undiscovered buried cultural resources (Calpine/Bechtel 1999b, Fig8.3-4b)."

Page 323 Applicant's Proposed Mitigation:

"Although the natural gas line was recommended for presence/absence testing in the AFC, it was not included in the testing done in August 1999 (Calpine/Bechtel 1999k). Confidential Attachment CR-35 recommends monitoring for the southern portion of the project site."

"The applicant also recommends Native American monitoring be a member of the Ohlone community, if archaeological remains are discovered during project construction."

Page 324 Staff's Proposed Mitigation Measures:

"Staff proposes presence/absence testing along the proposed route for the natural gas line and in the area of the PG&E metering station to ensure that there are no unmitigated impacts to previously undiscovered resources in this archaeologically sensitive area."

"Due to the potential for encountering human remains in the project vicinity, staff proposes that a Native American monitor (Ohlone/Costanoan) be part of the cultural resources team and be present during cultural resources monitoring activities."

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I highly recommend the more proactive proposal of the staff. The gas line and metering station will involve ground breaking to a greater depth than excavated during the presence/absence trenching of August 1999. The close proximity of cultural resources makes this area especially sensitive.

4) Avoidance of sites CA- SCL 249 and CA-SCL-250:

In the short time I had to discuss the mitigation of cultural resources with Torres and Busby, I asked them to address the issue of the impact of the water line excavation on archaeological sites CA- SCL 249 and CA-SCL-250. Torres stated that the proposed path of the water line had been changed to avoid these cultural resources. I highly recommend that the proposed change be honored, provided that the new location is in an area where presence/absence testing yields negative results.

5) Future Involvement of Native American Representatives in This Project:

I would like to further emphasize, here, my recommendation for more involvement of the Native American community. The act of excavating twenty-four trenches in August of 1999 without Native American consultation assumes a level of trust between the professional archaeological community and the Native American community. Recommendations to contact Native Americans, only when cultural remains are found, also assumes this trust exists.

Involving Native American representatives more readily in the mitigation process is vital to establishing good faith and good rapport between individuals involved in the project and between the two communities at large. There is an unavoidable conflict of interest when an archaeological researcher is employed by and asked to mitigate for a prospective applicant. Presence of a Native American representative can help to assure the Native American community that their concerns are being addressed and that cultural resources are being reported with their consultation. Lack of Native American consultation in the past, has resulted in intervention, litigation, and poor relations between the parties involved.

It is for these reasons that I make the following recommendation. I strongly urge, that for the remainder of this project, there is a Native American monitor present for all ground breaking activities, including presence/absence testing and development. These monitors should be involved at all stages of excavation, and not restricted to times when cultural remains are encountered by developers or consultants to the applicant.

If you have any questions about my comments, please feel free to contact me at the above address.

Respectfully,

Max Katherine D. Davidson

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Max Katherine D. Davidson, M.A.

Foothill College, Department of Business and Social Sciences

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Current Position

Instructor in Anthropology

Foothill College, Los Altos Hills, CA

Education

Bachelors in Anthropology

Qualified for Specialization in Archaeology, Physical & Cultural

University of California, Santa Barbara

Graduated March 1989

with High Honors and Distinction in the Major

Masters in Biological Anthropology

University of California, Los Angeles

Graduated March 1992

Teaching Experience

Instructor in Archaeology, and Physical and Cultural Anthropology

Foothill College, Los Altos Hills, CA

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April 1996 to Present

Courses:

Spring 1996: Introduction to Physical Anthropology (ANTH 1)

Fall 1996: Cultural Anthropology, 2 sections (ANTH 2A)

Winter 1997: Introduction to Archaeology (ANTH 8)

Spring 1997: Cultural Anthropology (ANTH 2A)

Prehistory (ANTH 3)

Fall 1997: Introduction to Physical (ANTH 1)

Winter 1998: Cultural Anthropology (ANTH 2A)

Introduction to Archaeology (ANTH 8)

Spring 1998: Cultural Anthropology (ANTH 2A)

Introduction to Physical Anthropology (ANTH 1)

Winter 1999: Cultural Anthropology (ANTH 2A)

Introduction to Archaeology (ANTH 8)

Archaeology Lab (ANTH 8L)

Spring 1999: Cultural Anthropology (ANTH 2A)

Introduction to Physical Anthropology (ANTH 1)

Fall 1999: On-line Physical Anthropology (ANTH 1)

Winter 2000: Cultural Anthropology (ANTH 2A)

Introduction to Archaeology (ANTH 8)

Archaeology Laboratory (ANTH 8L)

Magic, Science, and Religion (ANTH 5)

Spring 2000: Introduction to Physical Anthropology (ANTH 1)

Honors in Anthropology (ANTH 34)

Special Topics in Anthropology (ANTH 36)

Summer 2000: On-line Archaeology (ANTH 8) (scheduled)

On-Line Prehistory (ANTH 3) (scheduled)

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Committees, Meetings, and Events:

Curriculum Committee - Member

Division Meetings - Participant

Women's History Month - Speaker, Volunteer

Sink-a-Scholar Scholarship Fund Raiser - Volunteer

Regional Diversity Training Workshop - Participant

Faculty Flex Day - Participant

Teaching Assistant in Archaeology, Genetics, and Human Evolution

University of California, Dept. of Anthropology, Los Angeles

September 1990 to June 1992

Courses:

Fall 1990: Introduction to Human Evolution (ANTH 7)

Winter 1991: Introduction to Human Evolution (ANTH 7)

Spring 1991: Introduction to Human Evolution (ANTH 7)

Fall 1991: Archaeology: An Introduction (ANTH 8)

Winter 1992: Human Evolution: A Genetic Basis (ANTH 10)

Spring 1992: Introduction to Human Evolution (ANTH 7)

Tutor for student athletes in Human Evolution (ANTH 7)

University of California, JP Morgan Athletic Center, Los Angeles

March 1992 to June 1992

Archaeological Experience

Archaeologist (GS-5)

United States Forest Service, Chemult, Oregon

Seasonally since July 1998

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Field Technician for Central California Chumash Sites

Applied Earthworks, Inc., Fresno, California

Seasonally since March 1995

Field Technician and Human Osteologist for

Prehistoric and Historic Sierra Mountain Sites

Far Western Archaeological Research Group, Davis, California

Seasonally since October 1994

Field Archaeologist and Editor for

Historic and Prehistoric Sites of Southern California

Archaeological Advisory Group, Pioneertown, California

Seasonally since July 1988

Field Archaeologist for Monitoring and Excavation

of Historic and Prehistoric Sites in San Jose

Archaeological Resource Management, San Jose, California

February 1995 to March 1995

Field Archaeologist and Faunal and Human Analyst

for Sites in Southern California

LSA Associates Inc., Irvine, California

August 1992 to February 1993

Field and Lab Archaeologist for Santa Cruz Island Chumash Sites

Institute of Archaeology, University of California, Los Angeles

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April 1989 to June 1989

Field Archaeologist for Santa Barbara Chumash Sites

Westec Services, Santa Barbara, California

October 1988 to December 1988

Museum and Laboratory Experience

Lab Technician and Human Osteologist for

Burials from Prehistoric Eastern Sierra Sites

Far Western Archaeological Research Group, Davis, California

October to November 1995

Museum Osteologist for NAGPRA Inventory

Dept. of Anthropology, Arizona State University, Tempe, AZ

February 1994 to May 1994

Museum Scientist for Analysis, Assessment, and NAGPRA Inventory of Archaeological Collections and Human Burials

The Fowler Museum, University of California, Los Angeles

March 1993 to August 1993

Museum Scientist for Analysis and Report Writing on Fauna and Human Remains

Institute of Archaeology, University of California, Los Angeles

July 1992 to August 1993

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Museum Scientist for Human Osteology and

Paleopathology Studies of SLO-175 Burials, Curated at UCLA

Cal Trans Environmental Division

Sacramento, California

October 1992 to March 1993

Lab Assistant for Faunal Analysis of Historic and

Prehistoric Archaeological Sites

Zooarchaeology, University of California

December 1989 to September 1990

Lab Assistant for Faunal Analysis of the

Santa Barbara Presidio Collection

Santa Barbara Trust for Historical Preservation

Santa Barbara, California

January 1988 to April 1989

Lab Assistant for Faunal Analysis of the

Santa Ines Mission Collection

Dept. of Anthropology, University of California, Santa Barbara

July 1987 to January 1988

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Papers Presented at Professional Meetings

1992 Paper presentation on the *Behavioral Significance of Variations in the Morphology of the Mastoid* at the American Anthropological Association Conference, San Francisco, California.

1994 Poster presentation on the *Behavioral Significance of Variations in the Morphology of the Mastoid* at the American Association of Physical Anthropologists Conference, Denver, Colorado.

1994 Paper presentation of the *Behavioral Significance of Variations in the Morphology of the Mastoid Process* at the Society of American Archaeologists, Anaheim, California.

Publications and Contract Reports

1989 *Analysis of Faunal Remains from the Mission Santa Ines*. (P. Walker co-author) In J. Costello (ed.) **Mission Santa Ines Excavations**. Coyote Press, Salinas, California.

1990 *Summary of the Diet of the Mission Period Presidio Inhabitants Based on Phase One Material*. In Bente, Morgan, Imwalle, and Sheets (authors) ***Archaeological Investigation of the Northern Front - Commandancia, El Presidio de Santa Barbara Archaeological Research Series, vol. 2***. Santa Barbara Trust for Historical Preservation, Santa Barbara, California.

1990 *Faunal Analysis of Samples from Features E1 and 1 of the Santa Barbara Presidio*. In Bente, Morgan, Imwalle, and Sheets (authors) ***Archaeological Investigation of the Northern Front - Commandancia, El Presidio de Santa Barbara Archaeological Research Series, vol.2***. Santa Barbara Trust for Historical Preservation, Santa Barbara, California.

1992 ***Cultural Resources Assessment of Section 31, Township 10 North, Range 12 West, Rosamond Hills Area of Kern County, California***, James Brock (co-author). Archaeological Information Center, California State University, Bakersfield.

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1993 *Human Remains: Description of the Treatment and Analysis of Human Remains, Site SBa-60 (Accession-694)*. In Glenn S. Russel, Jean Hudson, Lisa Clug, and Max Katherine D. Davidson (authors) ***Collection Catalogue Verification Report; Archaeological Collection Facility, Fowler Museum of Cultural History, UCLA, Site CA-SBa-60 (Accession #694)***. Cal Trans, Cultural Studies Office, Environmental Division, Sacramento.

1993 *Human Remains: Description of the Treatment and Analysis of Human Remains, Site SBa-119 (Accession-386)*. In Glenn S. Russel, Jean Hudson, Lisa Clug, and Max Katherine D. Davidson (authors) ***Collection Catalogue Verification Report; Archaeological Collection Facility, Fowler Museum of Cultural History, UCLA, Site CA-SBa-119 (Accession #386)***. Cal Trans, Cultural Studies Office, Environmental Division, Sacramento.

1994 ***Report on Archaeological Monitoring of Tract 23935-5, City of La Quinta, County of Riverside California***, James Brock (co-author). Archaeological Information Center, University of California, Riverside.

1994 ***Report on Archaeological Monitoring of Rough Grading of Tract 26188 and a Portion of tract 25363, City of La Quinta, County of Riverside California***, James Brock (co-author). Archaeological Information Center, UC Riverside.

1996 ***Inventory of the Native American and Native Hawaiian Human Remains and Associated Funerary Objects in the Collections of the UCLA Fowler Museum of Cultural History: In Prepared Pursuant to Section 5 of the NAGPRA***. Glenn Russel et al. (co-contributors). Submitted to the National Park service, the Dept. of the Interior.

Associations

American Association of Physical Anthropologists (member)

Society of American Archaeologists (member)

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Paleopathology Association (member)

Skills

Teaching, On-line instruction, human osteology, paleopathology, archaeological monitoring, survey, excavation, data processing, report writing, GPS and ArcView mapping, faunal analysis, facial reconstruction, flint knapping and other traditional technologies, word processing, black and white photo developing.

Employee Recognition and Accomplishments

Forest Service: Certificate of Merit, Certificate of Appreciation, Resident Assistant, Outreach field day in archaeology for 5th and 6th graders.

Foothill College: Establishment of new courses, Increased enrollment of previously under enrolled courses, Online instruction, Favorable review by students, peers, and supervisors, Fostering of cooperative interdepartmental relations, Student employment in the Forest Service.

References

John Bambe, Operations Supervisor (541)365-7064

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James Brock, Archaeologist and Primary Investigator (760)228-1142

Archaeological Advisory Group, P.O.Box 491

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Bill Hildebrandt, Archaeologist and Primary Investigator (530)756-3941

Far Western Anthropological Research Group

P.O. Box 413, Davis, CA 95617

Ted Parker, Station Archaeologist (541)365-7074

Chemult Ranger Station

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Elizabeth Zoltan, Dean of Bus. and Soc. Sci. (650)949-7322

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